

EXHIBIT A

Nassau County Index No. 3448-2016/3124/2016

New York Supreme Court
Appellate Division—Second Department

In the Matter of PHILIP M. Pidot,

Petitioner-Appellant,

-AGAINST-

DOMINIC J. MACEDO, ROBERT DONNO, MARK S. SAUVIGNE, No. 2016-6927
MARLENE LOBATO, and THE NEW YORK STATE BOARD OF
ELECTIONS,

RESPONDENTS-RESPONDENTS.

In the Matter of DOMINIC J. MACEDO, ROBERT DONNO,
MARK S. SAUVIGNE, MARLENE LOBATO,

Petitioners-Appellants,

-AGAINST-

No. 2016-6927

PHILIP M. PIDOT, Candidate

-and-

GREGORY PETERSON, PETER KOSINSKI, DOUGLAS KELLNER,
and ANDREW SPANO, Commissioners Constituting the
NEW YORK STATE BOARD OF ELECTIONS,

RESPONDENTS-RESPONDENTS.

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July 16, 2016

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APPELLATE DIVISION - SECOND DEPARTMENT

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SAUVIGNE, MARLENE LOBATO, and THE NEW YORK
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Constituting the NEW YORK STATE BOARD OF
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PRELIMINARY STATEMENT

In this special proceeding, the Board of Elections in the City of New York (the "Board") takes no position on the merits of the appeal, but merely submits this memorandum in order to advise the Court as to what is required to conduct a

primary election for the Republican Party designation for Member of Congress from New York's 3rd Congressional District (the "3rd District").

A portion of the 3rd District is within Queens County. That portion of the 3rd District requires the use of 19 poll sites serving 12,478 voters enrolled in the Republican Party, of which 30 are military and federal overseas voters. To conduct the election at those 19 poll sites, the Board would need approximately 530 poll workers and to deploy the following equipment:

1. 38 ballot scanners
2. 19 ballot marking devices
3. 61 privacy booths
4. 82 supply carts (may be fewer if Election Districts are combined)
5. 119 tables
6. 400 chairs.

In addition to the above equipment, the Board would also be required to deploy the following equipment to render certain poll sites accessible to persons with disabilities:

1. Six cones
2. At least 5 mats (to cover wires)
3. One 28 foot ramp
4. Two 10 foot ramps
5. One 84 foot ramp.

To prepare the voting equipment (the ballot scanners and marking devices and related computer systems, it would take the following amounts of time:

1. One day to program the election management system
2. When that programming is completed, the Board then uploads to the State Board's vendor an electronic version of the ballot to be e-mailed to military and federal voters who have requested that their ballot be delivered in this manner. The Board also takes the extra step of sending another ballot through the mail.
3. Half of one day to program the Ballot on Demand system
4. Half of one day to prepare the military/federal and absentee ballots for printing by the Ballot on Demand system.

Federal law requires that military and federal ballots be transmitted to voters not less than 45 days prior to the date of the election. 52 U.S.C. § 20302(a)(8)(A). This requirement is to be waived where the State has a comprehensive plan to ensure that such voters have the opportunity to receive, mark, and submit their ballots, and "[t]he State has suffered a delay in generating ballots due to a legal contest." 52 U.S.C. § 20302(g)(1)(D) and (2)(B)(ii).

Once the above programming is completed, the draft ballot is prepared and e-mailed to BOE staff to proof. Once it

has been proofed, it is sent to the Board's outside ballot printing vendor (the "printer"). It can take up to four days for the printer to print and deliver the ballots to the Queens Voting Machine Facility from the time it receives the ballot in electronic format.

In addition, because Queens County is covered by language assistance provisions of the Voting Rights Act, the candidate's names that appear on these ballots must be translated into three languages (Chinese, Korean, and Bengali). Such translations require the input from the Board's bipartisan team of two translators for each language. Additionally, once the candidate's name has been translated, he or she is afforded the opportunity to review such translation. This process normally takes several days to a week.

The election day ballots and audio programming (for the ballot marking devices) must be made available for inspection by the candidates. For the election day ballots, that can occur on the day the ballots are delivered to the Queens Voting Machine Facility. For the review of the audio ballot, it can be scheduled for the day after the ballot is produced by the election management system.

It then takes approximately four days to test all of the election day voting equipment and another two days to ship it together with the other equipment to the designated poll sites.

Post election activities and statutorily mandated tasks necessary for Certification of the Election is mandated by State Law to be completed no later than fifteen days after the date of the Primary. The Board notes that the State and Local Primary Election is scheduled for September 13, 2016, and preparations for the November 8, 2016, General Election commence almost immediately thereafter.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify pursuant to 22 N.Y.C.R.R. § 670.10.3(f) that this brief was prepared on a computer, using Courier New 12 with double-spacing for the body and single-spacing for footnotes. The entire brief contains 1003 words, not including portions that may be excluded from the count pursuant to 22 N.Y.C.R.R. § 670.10.3(a)(3).